

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

ARTHUR GRADY GARNER,

No. C 11-05566 CW (PR)

Petitioner,

ORDER OF TRANSFER

V.

YATES, Warden,

Respondent.

Petitioner, a state prisoner, has filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging as a violation of his constitutional rights the denial of parole by the California Board of Parole Hearings. Petitioner has filed an application for leave to proceed in forma pauperis.

A petition for a writ of habeas corpus filed by a state prisoner in a State that contains two or more federal judicial districts may be filed in either the district of confinement or the district of conviction. See 28 U.S.C. § 2241(d). The district court where the petition is filed, however, may transfer the petition to the other district in the furtherance of justice. See id. Federal courts in California traditionally have chosen to hear petitions challenging a conviction or sentence in the district of conviction. See Dannenberg v. Ingle, 831 F. Supp. 767, 767 (N.D. Cal. 1993); Laue v. Nelson, 279 F. Supp. 265, 266 (N.D. Cal. 1968). But if a habeas petition is directed to the manner in which a sentence is being executed, e.g., if it involves parole or time credit claims, the district of confinement is the preferable forum. See Habeas L.R. 2254-3(a); Dunne v. Henman, 875 F.2d 244, 249 (9th Cir. 1989).

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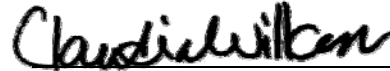
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Petitioner is incarcerated at Pleasant Valley State Prison, in Fresno County, which lies within the venue of the Eastern District of California. See 28 U.S.C. § 84(b). Because Petitioner challenges the execution of his sentence, the Court hereby ORDERS that pursuant to 28 U.S.C. § 1404(a) and Habeas L.R. 2254-3(b), and in the interests of justice, this petition be TRANSFERRED to the United States District Court for the Eastern District of California.

IT IS SO ORDERED.

Dated: 11/30/2011



CLAUDIA WILKEN  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

ARTHUR GARNER,  
Plaintiff,

Case Number: CV11-05566 CW

**CERTIFICATE OF SERVICE**

v.

YATES et al,  
Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on November 30, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Arthur Grady Garner D-26064  
Pleasant Valley State prison  
P.O. Box 8501  
Coalinga, CA 93210

Dated: November 30, 2011

Richard W. Wieking, Clerk  
By: Nikki Riley, Deputy Clerk

United States District Court  
For the Northern District of California